D.B. CIVIL WRIT PETITION NO.4292/1997
(M/s. Mahaveer Goods Transport Co Vs. UOI & Ors.)

Date of order : 11.8.2006

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Anjay Kothari, for the petitioner.
Mr. K.K. Bissa, for respondents.

Learned counsel for the assessee states that since during the pendency of the writ petition, the assessee has availed the alternative remedy and presently his appeal is pending before the ITAT, he may be permitted to withdraw this writ petition subject to liberty to prosecute his appeal before the Tribunal and to further prosecute the remedy before the Tribunal, if so required. He further prays that until the decision of the Tribunal, the ad-interim order passed by this Court against the recovery of demand may be continued.

In the facts and circumstances of the case, the petition is dismissed as withdrawn with the liberty as prayed for by the petitioner reserving his liberty to raise the contentions as have been raised in this petition, challenging the vires of Section 158 BD of the IT Act, if so necessitated and until the

decision of his appeal before the Tribunal, the interim order passed by this Court shall continue.

(GOPAL KRISHAN VYAS), J. (RAJESH BALIA), J.

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